



WISCONSIN STATE ASSEMBLY

STATE REPRESENTATIVE
JOSEPH PARISI

48th DISTRICT

~~TO: ASSEMBLY COMMITTEE ON CRIMINAL JUSTICE~~
FROM: REPRESENTATIVE JOE PARISI
RE: SUPPORT FOR AB 481- THE "GENDER HATE CRIMES ACT"
DATE: DECEMBER 10, 2009

Thank you Chairman Turner and members of the committee for holding hearing on AB 481, the "Gender Hate Crimes Act." Under current Wisconsin law, a prosecutor can seek a penalty enhancer for "hate crimes" motivated by a victim's race, religion, color, disability, sexual orientation, national origin, or ancestry. AB 481 would make crimes motivated by a victim's gender eligible for the hate crimes penalty enhancer.

The need for hate crimes legislation is compelling. Passage of hate crimes laws makes a powerful statement that our society is willing to combat violent bigotry in our communities. Hate crimes have an emotional and psychological impact on the victim and the victim's community that go well beyond typical criminal behavior. Hate crimes are often used as a tool to intimidate and terrorize other members of the victim's community, leaving them feeling isolated, vulnerable and unprotected by the law. By making members of that community fearful, angry and suspicious of other groups—and of our societal institutions in general—these crimes can shatter communities.

The purpose of hate crimes legislation is not to outlaw bigotry. This would be contrary to our state and federal Constitutions in addition to a practical impossibility. The purpose of these laws is for the state to publicly recognize the severity of and commit to eradicating bias-motivated crime.

The vast majority of states have recognized the need to take a stand against hate crimes. Wisconsin has been at the forefront of this issue and was one of the first states to pass a hate crimes law. The United States Supreme Court unanimously upheld the constitutionality of our hate crimes statute in the landmark 1993 decision of *Wisconsin v. Mitchell*.¹ Currently, 45 states have enacted some type of hate crimes law and 27 of them include gender motivated crimes. The federal government includes gender motivated crimes in its hate crimes law and also included a federal civil rights cause of action for gender motivated crimes in the original version of the Violence Against Women Act.

Like crimes motivated by a victim's race or religion, crimes motivated by gender have an impact well beyond the original victim. In fact, it seems odd to even have a hate crimes statute that does not include gender given the pervasiveness of violence against women and girls in our society. Crimes that are expressly motivated by misogyny—like crimes expressly motivated by racism or anti-Semitism—are the exact type of behavior that terrorize an entire community that hate crimes laws are intended to address.

Perhaps our society has become so used to gender motivated violence that we have come to expect it. Many perpetrators of sexual assault, domestic violence, and even murder openly admit that their crimes are directly motivated by the victim's gender.

Two high profile school shootings in 2006 and their coverage by the media demonstrate both the extent to which our society is saturated with violence against women and the extent we have come to almost expect

¹ *Wisconsin v. Mitchell*, 508 U.S. 476 (1993)



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such violence. The shootings involved an Amish schoolhouse in rural Pennsylvania and a large public high school in Colorado.² The killers went out of their way to separate the girls from the boys, and then deliberately attacked only the girls. Ten girls were shot and five killed at the Amish school. One girl was killed and a number of others were sexually assaulted in the Colorado attack.

Very little was made of the fact that only girls were targeted in these shootings. If the kids had been separated on the basis of race or religion, that likely would have been the focus of our response to these killings and the attacks would have been seen for what they really were: hate crimes.

The same is true for some acts of sexual and domestic violence. While most of these crimes would not be appropriate subjects of hate crimes prosecutions, some acts of sexual and domestic violence are intended to terrorize and entire community (for example, some serial rapists) and would warrant that a prosecutor have the discretion to pursue a hate crimes prosecution.

Some critics of gender hate crimes legislation in other states argued that these statutes would automatically turn every sexual assault or domestic violence case into a hate crimes prosecution. These concerns have proven unfounded. There has not been a flood of gender-motivated hate crimes prosecutions in the states that have passed such a law.

The burden of proof involved in hate crimes cases and prosecutorial discretion also mitigate against concerns of misuse of hate crimes laws. Prosecutors must have concrete, admissible evidence that an act was motivated by the victim belonging to a protected class in order to charge an individual with commission of a hate crime. In most cases, this is a burden that cannot be met without express statement of bias made by the perpetrator. Even in cases where gender bias can be proven, prosecutors may decide that the penalty imposed by the underlying crime is in itself sufficient and penalty enhancement is therefore unnecessary.

Wisconsin has long been at the forefront of addressing bias-motivated crimes. While we are all too aware that Wisconsin's current hate crimes law has not eradicated racism, homophobia, or religious discrimination in our state, I do believe that the Legislature made an important statement about what type of society we hope to become by passing our original hate crimes statute. The same holds true for recognizing the enormous impact gender-motivated crimes have on our communities and the responsibility we all have to work to end this type of violence. Please join me in supporting AB 481.

² <http://www.nytimes.com/2006/10/03/us/03amish.html>
<http://www.cnn.com/2006/US/09/29/school.shooting/index.html>

Testimony



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To: Members of Assembly Committee on Criminal Justice

From: Tony Gibart, Policy Coordinator, Wisconsin Coalition Against Domestic Violence

Date: December 10, 2009

Re: Assembly Bill 481—the Wisconsin Gender Hate Crimes Act

Chairperson Turner and members of the Committee, thank you for the opportunity to provide testimony in support of the Wisconsin Gender Hate Crimes Act. My name is Tony Gibart, and I represent the Wisconsin Coalition Against Domestic Violence (WCADV). WCADV is the statewide membership organization that represents local domestic violence victim service providers and survivors. WCADV fully supports the Wisconsin Gender Hate Crimes Act and thanks Rep. Parisi and Sen. Taylor for introducing this important measure.

Under Wisconsin's current hate crimes law, section 939.645, crimes motivated by the race, religion, color, disability, sexual orientation, national origin or ancestry of the victim are subject to a penalty enhancer. The Wisconsin Gender Hate Crimes Act would add gender to the aspects of the victim's identity which potentially trigger the penalty enhancer. In so doing, the Wisconsin Gender Hate Crimes Act will make Wisconsin's hate crimes law reflective of the seriousness of violence against women and gender inequality in our society.

Wisconsin's hate crimes statute has historic importance. In 1988, Wisconsin was one of the first states to pass a hate crimes law. Several years later, in the landmark United States Supreme Court case, *Wisconsin v. Mitchell*, a unanimous Court upheld this law against a constitutional challenge. In affirming the validity of hate crimes laws, the Court recognized that crimes that are motivated by a fundamental aspect of the victim's identity can be especially damaging to both the individual victim and the fabric of society as a whole. Following Wisconsin's lead, a majority of states now have hate crimes laws on their books. Importantly, most of these states have defined as hate crimes, crimes motivated by the victim's gender.

Violence against women represents an epidemic injustice in our state. On average 14 women and girls are sexually assaulted everyday in Wisconsin, and nearly one in four women reports experiencing intimate partner violence at some point in her life. Data from the Wisconsin Office of Justice Assistance and Department of Justice confirm what most already know, that women and girls make up the overwhelming majority of victims of domestic violence and sexual assault. In 2008, twice as many women were victims of domestic violence homicide as men. Even more striking, all of the killers, except one, were male. Domestic and sexual violence's disproportionate impact on women is an indication that many in our communities still hold deep-seated and dangerous sexist attitudes. In turn, the high level of violence against women is part of the reason these unhealthy views persist and spread.

The Wisconsin Gender Hate Crimes Act provides the Legislature with an opportunity to recognize that crime motivated on the basis of gender, like crime motivated by race or religion, is particularly troubling. The many incidents of domestic violence and sexual assault in Wisconsin affect not only the many individual victims; they also affect other women and girls who are left with the impression that they are at risk of being brutally traumatized. If members of society live with the fear that their identity could be a basis for violence or subordination, we will never be able to approach true of equality.

In closing, I urge the Committee to recommend passage of the Wisconsin Gender Violence Act. Your vote in favor of this bill will be in keeping with our state's tradition of recognizing the gravity of crimes that create inequality and making the law reflective of our highest ideals. Thank you.

